

03:04PM

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227  
(LJV)

March 6, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF CORY HIGGINS  
BEFORE THE HONORABLE LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY  
BY: JOSEPH M. TRIPI, ESQ.  
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And

UNITED STATES DEPARTMENT OF JUSTICE  
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And

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BY: PARKER ROY MacKAY, ESQ.

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For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent  
MARILYN K. HALLIDAY, HSI Special Agent  
KAREN A. CHAMPOUX, USA Paralegal

**LAW CLERK:** REBECCA FABIAN IZZO, ESQ.

**COURT DEPUTY CLERK:** COLLEEN M. DEMMA

**COURT REPORTER:** ANN MEISSNER SAWYER, FCRR, RPR, CRR  
Robert H. Jackson Federal Courthouse  
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\* \* \* \* \*

(Excerpt commenced at 3:04 p.m.)

(Jury seated at 3:04 p.m.)

**THE COURT:** The record will reflect that all our  
jurors, again, are present.

The government can call its next witness.

**MR. TRIPI:** We call Cory Higgins, Your Honor, who's  
present in the courtroom.

**C O R Y H I G G I N S,** having been duly called and sworn,  
testified as follows:

**MR. TRIPI:** May I proceed, Your Honor?

**THE COURT:** You may.

**MR. TRIPI:** Thank you.

**DIRECT EXAMINATION BY MR. TRIPI:**

Q. Good afternoon, Mr. Higgins.

A. Good afternoon.

03:05PM 1 Q. Mr. Higgins, by whom are you employed, sir?

03:06PM 2 A. Excuse me?

03:06PM 3 Q. By whom are you employed, sir?

03:06PM 4 A. I am employed by the Cattaraugus County Sheriff's Office.

03:06PM 5 Q. In what capacity?

03:06PM 6 A. I am a permanent rank of detective with the agency,

03:06PM 7 currently assigned to the DEA Buffalo office.

03:06PM 8 Q. How long have you been a member of the Cattaraugus County

03:06PM 9 Sheriff's Office?

03:06PM 10 A. I have been a member of the Cattaraugus County Sheriff's

03:06PM 11 Office since 1994.

03:06PM 12 Q. And what various positions have you held during your time

03:06PM 13 in that department?

03:06PM 14 A. I worked in a uniformed capacity. I was a member -- or,

03:06PM 15 assigned to the Southern Tier Regional Drug Task Force for

03:06PM 16 many years prior to my assignment at the Drug Enforcement

03:06PM 17 Administration.

03:06PM 18 Q. And you said you're also a task force officer with the

03:06PM 19 DEA?

03:06PM 20 A. I am.

03:06PM 21 Q. How long have you been a task force officer with the DEA?

03:06PM 22 A. Since 2002, almost 23 years.

03:07PM 23 Q. And the DEA's office is here in Buffalo, New York,

03:07PM 24 correct?

03:07PM 25 A. Yes.

03:07PM 1 Q. And so when you report to work on a daily basis for the  
03:07PM 2 last 23 years, generally, you're coming to Buffalo, right?

03:07PM 3 A. Yes.

03:07PM 4 Q. But you maintain obligations and duties to your home  
03:07PM 5 agency; is that correct?

03:07PM 6 A. That's correct.

03:07PM 7 Q. How does that work? Can you just explain that for the  
03:07PM 8 jury?

03:07PM 9 A. So, I still, with my assignment at the Drug Enforcement  
03:07PM 10 Administration, I work a lot with the Southern Tier agencies,  
03:07PM 11 or state and local agencies. If they have a case that they  
03:07PM 12 want to try to build up and bring it for federal prosecution,  
03:07PM 13 I will do that for them. I do that for my home agency which  
03:07PM 14 runs the Southern Tier Drug Task Force. I also do that for  
03:07PM 15 Wyoming County, Allegany County, I've done cases in  
03:08PM 16 Chautauqua County.

03:08PM 17 Q. So, you've done it for Wyoming, Allegany, Chautauqua, and  
03:08PM 18 your home county, Cattaraugus?

03:08PM 19 A. Yes.

03:08PM 20 Q. Generally speaking, for those who don't know, are a lot  
03:08PM 21 of those counties more rural than the Buffalo area?

03:08PM 22 A. Yes.

03:08PM 23 Q. Other than sort of coordinating with various state and  
03:08PM 24 local agencies from those counties, what are your duties and  
03:08PM 25 responsibilities as a DEA task force officer?

03:08PM 1 A. Conduct drug investigations in order to prosecute them  
03:08PM 2 federally.

03:08PM 3 Q. And so those prosecutions involve enforcement of Title 21  
03:08PM 4 of the United States Code?

03:08PM 5 A. That's correct.

03:08PM 6 Q. And with regard to those duties as a DEA task force  
03:09PM 7 officer, do you have any sort of collateral duties as the  
03:09PM 8 task force agent officer? Or specialties, I should say, in  
03:09PM 9 terms of types of cases that you work?

03:09PM 10 A. Well, over the years, I've worked numerous marijuana grow  
03:09PM 11 cases, whether it was outdoor or cultivation cases indoor  
03:09PM 12 throughout my career.

03:09PM 13 Q. Are you also the person that gets called in if there's,  
03:09PM 14 for example, like, a meth lab or something like that?

03:09PM 15 A. Yes. I spend a good amount of time as part of my  
03:09PM 16 assignment with DEA for clandestine laboratory  
03:09PM 17 investigations.

03:09PM 18 Q. That's the phrase I was looking for. What is that?

03:09PM 19 A. So I received some specialty training through the DEA  
03:10PM 20 where we would be called upon to go and dismantle and process  
03:10PM 21 clandestine labs that would have been located within our  
03:10PM 22 jurisdiction.

03:10PM 23 Q. Okay. Now as a member of both the Cattaraugus County  
03:10PM 24 Sheriff's Office, as well as a member of the DEA, is it  
03:10PM 25 important for you to be honest in your interactions with

03:10PM 1 other members of law enforcement?

03:10PM 2 A. Yes.

03:10PM 3 Q. Is it important to be honest with other members of the  
03:10PM 4 DEA?

03:10PM 5 A. Yes, sir.

03:10PM 6 Q. Is it important to be honest in your interactions with  
03:10PM 7 other federal agencies?

03:10PM 8 A. Yes.

03:10PM 9 Q. Is it important to be honest in your interactions with  
03:10PM 10 members of state and local police departments?

03:10PM 11 A. Yes.

03:10PM 12 Q. How about in your interactions with prosecutors?

03:10PM 13 A. Yes.

03:10PM 14 Q. Does that include in your interpersonal face-to-face  
03:11PM 15 dealings?

03:11PM 16 A. Yes.

03:11PM 17 Q. Does that include in official reports?

03:11PM 18 A. Yes.

03:11PM 19 Q. Does that include in less official reports like emails?

03:11PM 20 A. Yes.

03:11PM 21 Q. Why is it important in your duties and responsibilities  
03:11PM 22 to be honest in all of those different contexts as a part of  
03:11PM 23 your job?

03:11PM 24 A. There's no -- there's no room for deceit in our job.

03:11PM 25 Q. Why is that?

03:11PM 1 A. Everything we do is based upon those that testified  
03:11PM 2 before us.

03:11PM 3 Q. So trusting other members of law enforcement is  
03:11PM 4 important?

03:11PM 5 A. Yes.

03:11PM 6 Q. Do you -- could you do your job effectively if you didn't  
03:11PM 7 trust what other members of law enforcement were telling you?

03:11PM 8 A. No.

03:11PM 9 Q. Do you know a former DEA special agent named Joseph  
03:12PM 10 Bongiovanni?

03:12PM 11 A. Yes.

03:12PM 12 Q. Do you see him in court today?

03:12PM 13 A. I do.

03:12PM 14 Q. Can you please point to him and describe something he's  
03:12PM 15 wearing?

03:12PM 16 A. He's sitting in the middle at the front table, gray suit,  
03:12PM 17 purple tie.

03:12PM 18 **MR. TRIPI:** May the record reflect the witness has  
03:12PM 19 identified the defendant, Your Honor.

03:12PM 20 **THE COURT:** It does.

03:12PM 21 **BY MR. TRIPI:**

03:12PM 22 Q. Now, DEA task force officers and DEA special agents work  
03:12PM 23 in the same -- out of the same building in Buffalo, correct?

03:12PM 24 A. Yes.

03:12PM 25 Q. And you said you've been a part of the DEA for 23 years?

03:12PM 1 A. Yes.

03:12PM 2 Q. Has the DEA's physical office space changed at various  
03:12PM 3 points in time during your tenure there?

03:12PM 4 A. Yes.

03:12PM 5 Q. Can you tell the jury the different places the office has  
03:12PM 6 been over time?

03:12PM 7 A. Yes, we -- when I first came to the Drug Enforcement  
03:12PM 8 Administration, we were located in the Guaranty Building on  
03:13PM 9 Church Street right here in downtown Buffalo. We moved from  
03:13PM 10 there to the Electric Tower. And now we're at a location on  
03:13PM 11 Michigan.

03:13PM 12 Q. All in downtown Buffalo area?

03:13PM 13 A. Yes.

03:13PM 14 Q. And so you said you've been there 23 years. Is that  
03:13PM 15 since about 2001?

03:13PM 16 A. Yes.

03:13PM 17 Q. Did you start with the DEA as a TFO around the same time  
03:13PM 18 the defendant started as a special agent?

03:13PM 19 A. I guess I remember Joe being there the whole time I was  
03:13PM 20 there, so -- Mr. Bongiovanni.

03:13PM 21 Q. And were you ever partners with him during that 23 years  
03:13PM 22 you've been there?

03:13PM 23 A. No.

03:13PM 24 Q. Now, were you ever in the same DEA group as him?

03:14PM 25 A. Yes.



03:14PM 1 Q. What DEA group was that?

03:14PM 2 A. D-58.

03:14PM 3 Q. Now, for the bulk of your time in the DEA, how many

03:14PM 4 groups were there?

03:14PM 5 A. Two groups, mainly.

03:14PM 6 Q. What were the two main groups for most of your time

03:14PM 7 there?

03:14PM 8 A. Group D-57 and group D-58.

03:14PM 9 Q. Have you always been in D-58?

03:14PM 10 A. Yes.

03:14PM 11 Q. Generally, what was group D-58? Or what is group D-58?

03:14PM 12 A. When I first came to the DEA, group D-58 was actually the

03:14PM 13 task force group. It was -- it was manned by many different

03:14PM 14 agencies from Niagara Falls, Buffalo police, Cattaraugus

03:14PM 15 County, Chautauqua County, Erie County Sheriffs. And we had

03:15PM 16 also a couple special agents of the DEA that were assigned to

03:15PM 17 that group to help us along the way.

03:15PM 18 Q. So to sum it up, a few agents and a lot of TFOs?

03:15PM 19 A. Yes.

03:15PM 20 Q. And the way the DEA is structured, would that group have

03:15PM 21 a group supervisor?

03:15PM 22 A. Yes.

03:15PM 23 Q. And over that group supervisor, was there something

03:15PM 24 called a resident agent in charge?

03:15PM 25 A. Yes.

03:15PM 1 Q. And you said the other group was D-57. What has that  
03:15PM 2 group been historically since you've been there?

03:15PM 3 A. Well, for many years, it was the -- what we call the  
03:15PM 4 agents group. It was exclusively, as I remember, all agents  
03:15PM 5 on that side. And over time, they would start assigning TFOs  
03:15PM 6 to that -- to that group.

03:15PM 7 Q. Okay. Now during your tenure working with the defendant  
03:15PM 8 at the DEA, do you remember who some of his partners were,  
03:16PM 9 partners that he worked closely on cases with?

03:16PM 10 A. Yes.

03:16PM 11 Q. Can you name his partners that you know of?

03:16PM 12 A. He worked with Tom Doctor, who is a Buffalo police  
03:16PM 13 officer, a former Buffalo police officer.

03:16PM 14 Joseph Palmieri, who was with Tonawanda.

03:16PM 15 And, oh, what was his name? There's another individual,  
03:16PM 16 his name escapes me, he's a Buffalo police officer.

03:16PM 17 Q. Okay. I guess if you think of it later on during the  
03:16PM 18 testimony, you can flag me or something and we'll circle  
03:17PM 19 back, okay?

03:17PM 20 A. Sure.

03:17PM 21 Q. But you remember Palmieri and Doctor -- oops, you flagged  
03:17PM 22 me.

03:17PM 23 A. I believe it was Phil Torre.

03:17PM 24 Q. Phil Torre. Okay. And all three of those would be TFOs?

03:17PM 25 A. Yes.

03:17PM 1 Q. Was the defendant in group D-58 for some time with you?

03:17PM 2 A. Yes.

03:17PM 3 Q. In sequence, so you've named three partners of his, can

03:17PM 4 you name, like, who was his earliest partner who you

03:17PM 5 remember, who was his next, and who was his most recent?

03:17PM 6 A. Well, it would probably be Phil Torre.

03:17PM 7 Q. First?

03:17PM 8 A. Yes. As he left, and he left the unit, and Tom Doctor

03:17PM 9 came in next. They were both assigned to D-58. And then

03:18PM 10 Palmieri, I remember Joe. Joe was assigned to D-57 when he

03:18PM 11 came to DEA, as I remember.

03:18PM 12 Q. So Palmieri was assigned to a different group?

03:18PM 13 A. Yes.

03:18PM 14 Q. Eventually, did Bongiovanni go into the group Palmieri

03:18PM 15 was in?

03:18PM 16 A. Yes.

03:18PM 17 Q. Okay. So at that point, they partnered up?

03:18PM 18 A. Yes.

03:18PM 19 **MR. TRIPI:** Can we publish -- this is in evidence,

03:18PM 20 Exhibit 127 for the witness.

03:18PM 21 Can we amplify or zoom in on just the photo?

03:18PM 22 **BY MR. TRIPI:**

03:18PM 23 Q. Looking at Exhibit 127 here, do you -- starting with the

03:18PM 24 person circled to the right of the photo, do you recognize

03:18PM 25 that person's face?

03:18PM

1 A. Yes.

03:18PM

2 Q. Who's that?

03:18PM

3 A. Joseph Bongiovanni.

03:18PM

4 Q. That's the defendant?

03:18PM

5 A. Yes.

03:18PM

6 Q. Now, the person almost on the total opposite side whose

03:19PM

7 face is also circled, I understand is wearing sunglasses, do

03:19PM

8 you recognize that person?

03:19PM

9 A. Yes.

03:19PM

10 Q. And who's that?

03:19PM

11 A. That's Officer Tom Doctor.

03:19PM

12 **MR. TRIPI:** Okay. You can take that photo down.

03:19PM

13 **BY MR. TRIPI:**

03:19PM

14 Q. Now, if you recall, by 2009, do you recall where the DEA

03:19PM

15 office was physically located?

03:19PM

16 A. 2009, we would have moved to the Electric Tower. I

03:19PM

17 believe we moved there end of 2008 maybe, or December of

03:19PM

18 2008.

03:19PM

19 Q. Okay. In -- on June 4th, 2020, you testified in the

03:20PM

20 grand jury in this case; is that right?

03:20PM

21 A. Yes.

03:20PM

22 Q. Now at some point in that testimony, if you indicated

03:20PM

23 that in 2009 you guys were in the Guaranty Building, did you

03:20PM

24 make a mistake?

03:20PM

25 A. Yes.

03:20PM 1 Q. Have you thought more about the timeline of where you  
03:20PM 2 were since your testimony?

03:20PM 3 A. Yes.

03:20PM 4 Q. Does that happen sometimes, as a person who's testified  
03:20PM 5 in courts before?

03:20PM 6 A. Yes.

03:20PM 7 Q. So, sometimes, does your memory get better when you think  
03:20PM 8 about a case?

03:20PM 9 A. It does.

03:20PM 10 Q. Is that an example of it happening with you?

03:20PM 11 A. Yes.

03:20PM 12 Q. In 2009, was Defendant Bongiovanni in your group, D-58?

03:20PM 13 A. Yes.

03:20PM 14 Q. In 2009, did -- did group D-58 have a regular routine  
03:20PM 15 practice of weekly meetings to discuss case updates, new  
03:20PM 16 cases, work loads, et cetera?

03:20PM 17 A. Yes.

03:21PM 18 Q. What day of the week were those weekly meetings at DEA  
03:21PM 19 group 58?

03:21PM 20 A. Most of the time, it was Monday morning.

03:21PM 21 Q. And so talk about the weekly Monday meeting, and describe  
03:21PM 22 for the jury what would typically happen at a typical routine  
03:21PM 23 meeting.

03:21PM 24 A. Well our group supervisor at that time was Special Agent  
03:21PM 25 Michelle Spahn, she would have us sit in the conference room

03:21PM 1 at the table. All agents and task force agents in our group  
03:21PM 2 would attend if they could. And we'd go around and discuss  
03:21PM 3 weekly operations, or that week's operations if we had one.  
03:21PM 4 We would talk about where we were in our cases or in our  
03:21PM 5 investigations, and if you had a new case, you would present  
03:21PM 6 it. You had the opportunity present it at that time.

03:22PM 7 Q. And in your experience, both in DEA and in your home  
03:22PM 8 agency, is that type of face-to-face sharing of information  
03:22PM 9 important in law enforcement?

03:22PM 10 A. Yes.

03:22PM 11 Q. Can you explain for the jury why that's important?

03:22PM 12 A. Well, working -- working in an environment like that,  
03:22PM 13 there's oftentimes crossover in cases where one target of the  
03:22PM 14 investigation may be connected to another individual's  
03:22PM 15 investigation. A lot of the times we work as a group, but  
03:22PM 16 we'll work our cases a little bit independent, too. It was  
03:22PM 17 used as a deconfliction, also. You know, in case there was  
03:22PM 18 any overlap.

03:22PM 19 Q. What do you mean by overlap? Explain for the jury.

03:22PM 20 A. Well, again, like, if I'm investigating somebody, and  
03:23PM 21 somebody in my own group or -- knows of another agency or  
03:23PM 22 another officer may be in another group within our office is  
03:23PM 23 looking at the same guy, we could discuss that.

03:23PM 24 We would also share the information because there's  
03:23PM 25 a -- a lot of knowledge that sits at that table, and we all

03:23PM 1 don't have the same ideas of how to effectively take on that  
03:23PM 2 investigation, and we would get some input also from other  
03:23PM 3 agents on what might be a better application to -- in  
03:23PM 4 furtherance of your investigation.

03:23PM 5 Q. So you learn from your peers?

03:23PM 6 A. Absolutely.

03:23PM 7 Q. Not just your supervisors?

03:23PM 8 A. Correct.

03:23PM 9 Q. In your -- in your experience, in the cases you made just  
03:23PM 10 generally during your career, what's been more important to  
03:24PM 11 you, that type of interpersonal face-to-face exchange of  
03:24PM 12 ideas? Or going and researching records in a file room or  
03:24PM 13 looking information up on a computer?

03:24PM 14 A. I -- I depend upon the men and women that I've served  
03:24PM 15 with my entire career, and that knowledge.

03:24PM 16 Q. As a task force officer in the DEA going back to the 2009  
03:24PM 17 time frame, at that time, was there any limit or limitations  
03:24PM 18 on the amount of records that you could access directly as a  
03:24PM 19 task force officer?

03:24PM 20 A. I would -- I believe --

03:24PM 21 Q. Let me withdraw that. Is my word "limit" the problem in  
03:25PM 22 that question?

03:25PM 23 A. Excuse me?

03:25PM 24 Q. Was there a difference between the information -- I'm  
03:25PM 25 trying to ask it the right way. Is there a difference in

1 2009 between what's readily accessible to a task force

2 officer versus what was readily accessible to a full sworn

3 DEA agent in terms of computer access?

4 A. Okay. I have, over the years, I have had limited access

5 being a task force agent. To, like, in 2009, in our case

6 management files, I would only have access to the records and

7 reports within my own group as I remember, as I recall.

8 Q. So by that, just if I can clarify it, you're talking

9 about your computer access was limited to group D-58 records?

10 A. Correct. Without getting permissions from our rank and

11 file.

12 Q. What do you mean by that last part?

13 A. So, if I was -- if I was working a case, and it was

14 connected in another jurisdiction, we could request that I

15 have access to that case in that jurisdiction of the DEA.

16 Does that make --

17 Q. So in 2009, could you just go on a computer and look up

18 all the prior DEA Buffalo cases?

19 A. No.

20 Q. Okay. So that -- okay. Did that -- did those types of

21 limitations make that sort of in-person information sharing

22 more important?

23 A. Yes.

24 Q. Now, in 2009, did the defendant sit or was he physically

25 situated in proximity to you anywhere at the DEA?



03:27PM 1 A. Yes.

03:27PM 2 Q. Can you describe where your -- how the office was  
03:27PM 3 configured, if you recall?

03:27PM 4 A. Our office space was pretty big. There's two double rows  
03:27PM 5 of cubicles in our bay. And as I recall, I don't -- I don't  
03:27PM 6 really remember where Joe sat at that time, or  
03:27PM 7 Mr. Bongiovanni, but I --

03:27PM 8 Q. Within a course of a day, were you free to walk the  
03:28PM 9 office and intermingle with D-58 or D-57?

03:28PM 10 A. Yes.

03:28PM 11 Q. And at that time, you were both in D-58?

03:28PM 12 A. As I recall.

03:28PM 13 Q. Okay. On or about June 8th, 2009, did you initiate a DEA  
03:28PM 14 case file C2-09-0097 with three targets of investigation?

03:28PM 15 A. Yes.

03:28PM 16 **MR. TRIPI:** Government Exhibit 12 is in, but I've got  
03:28PM 17 a submarking of Government Exhibit 12A consisting of I think  
03:28PM 18 it's three DEA-6s. This exhibit in paper copy, it's front and  
03:28PM 19 back, just so you know.

03:28PM 20 **MR. MacKAY:** Joe, I have no objection if you just  
03:29PM 21 want to move it in.

03:29PM 22 Judge, we'll stipulate it in as a sub exhibit of 12.

03:29PM 23 **THE COURT:** So the Exhibit 12 is already in evidence?

03:29PM 24 **MR. TRIPI:** Correct.

03:29PM 25 **THE COURT:** This is a sub exhibit of 12?

03:29PM

1

**MR. TRIPI:** It is.

03:29PM

2

**THE COURT:** And you've got no problem of him putting

03:29PM

3

it in?

03:29PM

4

**MR. MacKAY:** No problem. No objection.

03:29PM

5

**THE COURT:** So let's use it.

03:29PM

6

**MR. TRIPI:** Thank you. I'm going to publish 12A.

03:29PM

7

And Ms. Champoux, if we can go to the second-to-last page of

03:29PM

8

it. So I'm looking for date prepared to be June 8th, 2009 if

03:29PM

9

that helps you. Thank you.

03:29PM

10

**BY MR. TRIPI:**

03:29PM

11

Q. Looking at this exhibit, excuse me, Mr. Higgins, can you

03:29PM

12

tell the jury what this is as it relates to the file number

03:29PM

13

that I've referenced?

03:29PM

14

A. Yes. This is a DEA-6 titled case initiation on 6/1/2009

03:29PM

15

that was authored by me.

03:29PM

16

Q. And -- and you wrote the content and the basis of the

03:30PM

17

investigation?

03:30PM

18

A. Yes.

03:30PM

19

Q. Earlier in your testimony, you indicated there are some

03:30PM

20

investigations that you help facilitate from your home

03:30PM

21

agency; is that right?

03:30PM

22

A. Yes.

03:30PM

23

Q. Is this an example of such an investigation?

03:30PM

24

A. Yes.

03:30PM

25

Q. So, the basis of investigation, before I ask you to read

03:30PM 1 that, can you -- can you tell the jury generally where you  
03:30PM 2 obtained that information from?

03:30PM 3 A. This information?

03:30PM 4 Q. Yes.

03:30PM 5 A. Yes. Originally I was informed by my agency or my  
03:30PM 6 coworkers in the Southern Tier Regional Drug Task Force, that  
03:30PM 7 information. And then I would have met with their source of  
03:30PM 8 information or cooperator.

03:30PM 9 Q. As you sit here today in 2024, do you remember who that  
03:31PM 10 source of information was?

03:31PM 11 A. I do not.

03:31PM 12 Q. Okay. Please continue. Go ahead.

03:31PM 13 A. At that time, the information was passed along to me  
03:31PM 14 involving the targets of this investigation.

03:31PM 15 Q. Was that a combination of the source of information and  
03:31PM 16 another detective in the Southern Regional Drug Task Force?

03:31PM 17 A. Yes.

03:31PM 18 Q. Do you remember who that detective was?

03:31PM 19 A. I do not.

03:31PM 20 Q. Has there been a lot of turnover since 2009?

03:31PM 21 A. Yes, there has.

03:31PM 22 Q. Okay. If you could, for the jury's edification, can you  
03:31PM 23 just begin reading paragraph 1, and then continue in sequence  
03:31PM 24 under basis of investigation?

03:31PM 25 A. Yes. Paragraph 1. On June 1st, 2009, TFA Higgins was

1 informed by a source of information, hereinafter referred to  
2 as SOI, of an organization that is growing large quantities  
3 of marijuana in the Ellicottville area. The C.S. stated that  
4 members of this group have been arrested in the past and  
5 currently reside in the Buffalo area.

6 Paragraph 2. The SOI stated that Matt and Mark Suppa,  
7 while partnering with Mike Masecchia, cultivate numerous  
8 marijuana grows in the Ellicottville area. The SOI stated  
9 that Mark Suppa owns a cabin on Morgan Hollow Road near  
10 Ellicottville. The SOI further revealed that the Southern  
11 Tier Regional Drug Task Force has seized hundreds of plants  
12 on neighboring properties in past years.

13 Paragraph 3. Further investigation revealed that Mark  
14 Suppa owns a residence at 6799 Morgan Hollow Road in the Town  
15 of Franklinville, New York, which borders Ellicottville.  
16 Mark Suppa shows a contact address of 3201 South Wells  
17 Street, Chicago, Illinois.

18 Q. Now, before I go to the next page, I'd like to just ask  
19 you a couple of questions, okay?

20 There's a sentence that you wrote in there, the SOI  
21 further revealed that the Southern Tier Regional Drug Task  
22 Force has seized hundreds of plants on neighboring properties  
23 in past years. Do you see that sentence you wrote?

24 A. Yes.

25 Q. Now, earlier you mentioned you had experience in

03:33PM 1 investigating outdoor grows and marijuana grows,

03:33PM 2 specifically, correct?

03:33PM 3 A. Yes.

03:33PM 4 Q. Is that a tactic that you saw in those rural areas where  
03:33PM 5 people who don't live at a property will grow on someone  
03:33PM 6 else's land?

03:33PM 7 A. Yes.

03:33PM 8 Q. Does that make -- cause some difficulty in those types of  
03:33PM 9 investigations?

03:33PM 10 A. Yes.

03:33PM 11 Q. Also, when you're talking about marijuana grows like the  
03:34PM 12 one referenced here on Morgan Hollow Road, are there  
03:34PM 13 challenges for land or ground surveillance in that area?

03:34PM 14 A. Yes.

03:34PM 15 Q. What are some of those challenges?

03:34PM 16 A. Just the terrain in itself, the environment being out  
03:34PM 17 there in the rural communities. Being exposed, as law  
03:34PM 18 enforcement, trying to conduct surveillance. We would stand  
03:34PM 19 out. The terrain that we discover/locate marijuana is in  
03:34PM 20 environments that are concealed for observation from, like,  
03:34PM 21 even the roadway.

03:34PM 22 Q. How does your ability, based on your experience working  
03:34PM 23 DEA cases in the Buffalo area and its suburbs, compare to  
03:34PM 24 your ability to do surveillance in those types of rural areas  
03:34PM 25 as you're -- as are referenced here? Is there a difference

03:34PM 1 there?

03:34PM 2 A. Yes.

03:34PM 3 Q. Can you explain that difference for the jury?

03:35PM 4 A. We are very limited in the rural communities to conduct

03:35PM 5 surveillance. It, again, we -- we can become more

03:35PM 6 compromised or compromised quicker out in a rural community

03:35PM 7 because there's not a lot of traffic in some of these areas.

03:35PM 8 Q. And in the Buffalo area and its surrounding suburbs, are

03:35PM 9 you able to blend in better on surveillance?

03:35PM 10 A. Yes, we are.

03:35PM 11 Q. Do you have more resources in the Buffalo area for

03:35PM 12 surveillance?

03:35PM 13 A. Yes.

03:35PM 14 Q. Can you explain first how it's easier to blend in in

03:35PM 15 Buffalo and its surrounding suburbs? Let's start with that

03:35PM 16 part.

03:35PM 17 A. One, the amount of traffic in the City of Buffalo. And

03:35PM 18 the other factor that comes into play is our partnerships not

03:35PM 19 only with our -- our unit at D-58 when we're doing

03:35PM 20 surveillance you have up to 15 to 19 people that can

03:36PM 21 participate in those surveillances, we also have the

03:36PM 22 resources where we can request help from other groups within

03:36PM 23 our agency or partnering agencies at the state and local

03:36PM 24 level.

03:36PM 25 Q. Have you partnered, for example, on surveillance with the

03:36PM 1 Erie County Sheriff's Office?

03:36PM 2 A. Yes.

03:36PM 3 Q. Have you partnered in the Buffalo area with the FBI?

03:36PM 4 A. Yes.

03:36PM 5 Q. Have you partnered with the ATF?

03:36PM 6 A. Yes.

03:36PM 7 Q. Have you partnered with the Buffalo Police Department?

03:36PM 8 A. Yes.

03:36PM 9 Q. Have you partnered the Amherst Police Department, your  
10 agency at least?

03:36PM 11 A. Yes.

03:36PM 12 Q. And so that's the blending part of it. The other part of  
13 it is -- I guess I'll move on from that. I'll withdraw it.

03:36PM 14 Now, in 2009, after you opened the file as referenced

03:37PM 15 here, to the best of your recollection, was that SOI that's

03:37PM 16 referenced in there, was that someone who was working with a

03:37PM 17 detective in the local agency you were working with?

03:37PM 18 A. Yes.

03:37PM 19 Q. Okay. So it wasn't a signed-up confidential source,  
20 right?

03:37PM 21 A. Correct.

03:37PM 22 Q. Can you describe the difference between an SOI and a  
23 confidential source?

03:37PM 24 A. A confidential source, there's a couple different types  
25 that we would work.

03:37PM 1 There's defendant confidential sources. There's paid  
03:37PM 2 confidential sources. There's a Good Samaritan, that wants  
03:37PM 3 to cooperate from start to finish of a case. Oftentimes, we  
03:38PM 4 have people that will provide us with information and want to  
03:38PM 5 meet with us and give us the details that they have at that  
03:38PM 6 point and that's it, they don't want to participate  
03:38PM 7 physically in the case or under our direction.

03:38PM 8 Q. And we can go to the next page of this initiation 6.

03:38PM 9 Okay. So we just looked at page 1 a few moments ago. Can  
03:38PM 10 you read what you wrote on page 2 now under targets of  
03:38PM 11 investigation?

03:38PM 12 A. Yes. Targets of the investigation. The immediate target  
03:38PM 13 of this investigation will be Mark Suppa, Matt Suppa, Mike  
03:38PM 14 Masecchia, and others involved in this drug organization.

03:38PM 15 Q. And under indexing, I won't make you read it all, but did  
03:39PM 16 you write all of that indexing information?

03:39PM 17 A. I did.

03:39PM 18 Q. And what was the purpose of that information that you put  
03:39PM 19 there?

03:39PM 20 A. It's part of our database, DEA database and NADDIS where  
03:39PM 21 we can input information, we can also pull information from  
03:39PM 22 it. With Mark Suppa and Matt Suppa, they did not have a  
03:39PM 23 NADDIS number, which gets assigned once an agent describes  
03:39PM 24 them.

03:39PM 25 So, as I do here, I -- with Mark Suppa, NADDIS negative



03:39PM 1 described as, and I give some pertinent details there.

03:39PM 2 Q. And so Mark Suppa, you did -- you -- you found

03:39PM 3 information that he had a residence in Chicago?

03:39PM 4 A. Yes.

03:39PM 5 Q. With Matt Suppa, you found information or you identified

03:39PM 6 information here that indicated he had an address on

03:40PM 7 35 Tacoma Buffalo, New York?

03:40PM 8 A. Yes.

03:40PM 9 Q. Is that information that you got from the source

03:40PM 10 generally or --

03:40PM 11 A. That was information that I probably would have extracted

03:40PM 12 through one of our state and local databases.

03:40PM 13 Q. Okay. Tacoma Avenue in Buffalo, New York, is that

03:40PM 14 generally the North Buffalo part of town?

03:40PM 15 A. Yes.

03:40PM 16 Q. And then number 3, you have Mike Masecchia there, right?

03:40PM 17 A. Yes.

03:40PM 18 Q. Now, he had a NADDIS number is that right?

03:40PM 19 A. He did.

03:40PM 20 Q. Now --

03:40PM 21 A. He does.

03:40PM 22 Q. -- does that mean he had a prior case in the system in

03:40PM 23 DEA?

03:40PM 24 A. It would mean that he was indexed.

03:40PM 25 Q. Okay.

03:40PM 1 A. That an agent would have put some -- some bio information  
03:40PM 2 on Michael Masecchia.

03:40PM 3 Q. So an indexing gets you a NADDIS, but it doesn't  
03:40PM 4 necessarily mean there was a case or a file on you, correct?

03:41PM 5 A. That's correct.

03:41PM 6 Q. When you got that NADDIS number, because he had a NADDIS  
03:41PM 7 number, you found that information, the NADDIS?

03:41PM 8 A. I did.

03:41PM 9 Q. Did you look any further than that? Or did you just get  
03:41PM 10 the NADDIS number to open the file?

03:41PM 11 A. I just captured the NADDIS number to open my file.

03:41PM 12 Q. Now, was the opening of this particular file as you did  
03:41PM 13 it in 2009, for lack of a better term and just because I  
03:41PM 14 can't think of a better one, was it essentially a favor to  
03:41PM 15 your home agency? In other words, was it a file you were  
03:41PM 16 opening to facilitate for your home agency?

03:41PM 17 A. I believe that this case was opened in cooperation with  
03:41PM 18 my agency as the targets of this investigation were living  
03:41PM 19 outside of Cattaraugus County, with the exception of one of  
03:42PM 20 the individuals who had a cabin.

03:42PM 21 Q. With the exception -- I didn't hear the last part?

03:42PM 22 A. With the exception of one of the individuals who had a  
03:42PM 23 cabin on Morgan Hollow Road, which is located in Cattaraugus  
03:42PM 24 County in the Town of Franklinville.

03:42PM 25 Q. And who was the person identified as having the cabin?

03:42PM 1 Go back to the first page there.

03:42PM 2 A. Mark Suppa.

03:42PM 3 **MR. TRIPI:** Okay. Can we go back to that indexing,  
03:42PM 4 Karen, please?

03:42PM 5 **BY MR. TRIPI:**

03:42PM 6 Q. So Mark Suppa also had an address in Chicago, right?

03:42PM 7 A. Yes.

03:42PM 8 Q. So he's the landowner?

03:42PM 9 A. Yes.

03:42PM 10 Q. Prior to your opening of this case, were these names that  
03:42PM 11 meant anything to you?

03:42PM 12 A. No.

03:42PM 13 Q. Now, did the initial information that you wrote here,  
03:43PM 14 based upon what you had obtained to open this file, did it  
03:43PM 15 seem promising to you?

03:43PM 16 A. Yes.

03:43PM 17 Q. Now, shortly after you opened that file, did there come a  
03:43PM 18 point in time within the confines of the DEA office that you  
03:43PM 19 had a discussion about Mike Masecchia with this defendant?

03:43PM 20 A. Yes.

03:43PM 21 Q. Can you describe what happened for the jury, please?

03:43PM 22 A. Just briefly in passing, I had a conversation with  
03:43PM 23 Special Agent Joseph Bongiovanni regarding Mike Masecchia.

03:43PM 24 Q. Can you describe how the conversation started and the  
03:43PM 25 context of where you were and how it came up?

03:43PM 1 A. As I remember, we were in our bay. And Joe approached me  
03:43PM 2 and said, I see you're investigating this. And he had a  
03:44PM 3 piece of paper in his hand.

03:44PM 4 Q. Without speculating -- I got it. Without speculating as  
03:44PM 5 to what the piece of paper was, he had a piece of paper in  
03:44PM 6 his hand?

03:44PM 7 A. Yes.

03:44PM 8 Q. Did he mention a name to you?

03:44PM 9 A. Masecchia.

03:44PM 10 Q. Okay. What did he say at that point?

03:44PM 11 A. He said -- he said that I grew up, or something along --  
03:44PM 12 he said I grew up with these -- or, I know these guys and I'm  
03:44PM 13 close to them, and I can't help you on this.

03:44PM 14 And my response was, okay, no problem. And that was it.

03:44PM 15 Q. But there was one name you remembered him specifically  
03:44PM 16 mentioning?

03:44PM 17 A. Yes.

03:44PM 18 Q. Whose name was that?

03:44PM 19 A. Masecchia.

03:44PM 20 Q. Mike Masecchia?

03:44PM 21 A. Well, I remember -- yes, it's Mike Masecchia, but I  
03:44PM 22 remember as just Masecchia.

03:44PM 23 Q. That's what he said?

03:45PM 24 A. Yes.

03:45PM 25 Q. Was that a one-on-one conversation in the office?

03:45PM 1 A. Yes.

03:45PM 2 Q. And this conversation was sometime in 2009, after you  
03:45PM 3 opened the file?

03:45PM 4 A. As I recall.

03:45PM 5 Q. How long approximately after you opened the file was the  
03:45PM 6 conversation?

03:45PM 7 A. I don't know.

03:45PM 8 Q. Well, you -- after this, let's go to the next DEA-6 in  
03:45PM 9 the file, did you prepare a status update?

03:45PM 10 A. I did.

03:45PM 11 **MR. TRIPI:** Can we go to the next one, Karen? Scroll  
03:45PM 12 in the other direction. It's the October one, please.

03:45PM 13 **MR. MacKAY:** I'm sorry, were you on page 2 of the  
03:45PM 14 document?

03:45PM 15 **MR. TRIPI:** This is page 2, yes. Sorry.

03:45PM 16 **BY MR. TRIPI:**

03:45PM 17 Q. Okay. This is that same sub exhibit, but now this is  
03:46PM 18 page number 2. And it's a DEA-6 report from October 2nd,  
03:46PM 19 2009; is that right?

03:46PM 20 A. Yes.

03:46PM 21 Q. And did you write that report?

03:46PM 22 A. I did.

03:46PM 23 Q. And that's a status update, October 2nd, 2009?

03:46PM 24 A. Yes.

03:46PM 25 Q. So, your initial DEA-6 was June 8th, 2009, right?

03:46PM 1 A. Yes.

03:46PM 2 Q. And your status update, your first status update is  
03:46PM 3 October 2nd, 2009; is that right?

03:46PM 4 A. Yes.

03:46PM 5 Q. Was your conversation with the defendant sometime after  
03:46PM 6 the case initiation, and sometime before the status update?

03:46PM 7 A. I don't remember.

03:46PM 8 Q. Did you have this conversation while the file was open?

03:46PM 9 A. Yes.

03:46PM 10 Q. Well, after you opened it, how did the case progress?  
03:47PM 11 Withdrawn. After that conversation, how did the case  
03:47PM 12 progress?

03:47PM 13 A. It didn't.

03:47PM 14 Q. Now, did you have in the interim members of the Southern  
03:47PM 15 Regional Drug Task Force doing or attempting to do  
03:47PM 16 surveillance at that location on Morgan Hollow Road?

03:47PM 17 A. Yes.

03:47PM 18 Q. And did you reference that in your status update?

03:47PM 19 A. Yes.

03:47PM 20 Q. Can you read that portion of the status update for  
03:47PM 21 your -- for the jury?

03:47PM 22 A. Yes. Paragraph 2. TFA Higgins has met with members of  
03:47PM 23 the Southern Tier Regional Drug Task Force regarding  
03:47PM 24 collaborating information and investigation resources on  
03:47PM 25 Suppa. Members of the SRDTF have been conducting

03:48PM 1 surveillance of Suppa's residence located on Morgan Hollow  
03:48PM 2 Road in the Town of Franklinville, New York.

03:48PM 3 Q. And SRDTF means Souther Regional Drug Task Force?

03:48PM 4 A. Yes.

03:48PM 5 Q. And at any point was there a time where you were -- where  
03:48PM 6 they were doing surveillance and you told them to stop  
03:48PM 7 watching?

03:48PM 8 A. No.

03:48PM 9 Q. Now, paragraph 1, you documented information that had  
03:48PM 10 been relayed to you regarding that source of information?

03:48PM 11 A. Yes.

03:48PM 12 Q. Can you read that information and describe what was going  
03:48PM 13 on?

03:48PM 14 A. During this investigation, it has become very difficult  
03:48PM 15 to establish a confidential source regarding the marijuana  
03:48PM 16 cultivation of Mark Suppa and others.

03:48PM 17 Q. And what did you mean by that?

03:48PM 18 A. That we didn't have anyone providing us with current  
03:49PM 19 information or the willingness to provide us with current  
03:49PM 20 information.

03:49PM 21 Q. So, based upon this information and what you recall, what  
03:49PM 22 had happened to that initial SOI that helped you develop the  
03:49PM 23 information to initiate the file?

03:49PM 24 A. That individual was no longer providing us with  
03:49PM 25 information.

03:49PM 1 **MR. TRIPI:** And can we go on to the next one? So the  
03:49PM 2 first page of this sub exhibit, Ms. Champoux.

03:49PM 3 **BY MR. TRIPI:**

03:49PM 4 Q. After your status update, you did another case DEA-6, and  
03:49PM 5 this was the closing of the file; is that right?

03:49PM 6 A. That's correct.

03:49PM 7 Q. And what's the date of that?

03:49PM 8 A. January 11th, 2010.

03:50PM 9 Q. And with that, you closed the file?

03:50PM 10 A. Yes.

03:50PM 11 Q. Now, at any point during your discussion with the  
03:50PM 12 defendant during the initial discussion where you referenced  
03:50PM 13 Masecchia, or at any point after that, prior to your closing  
03:50PM 14 of the file, did the defendant ever tell you there was a  
03:50PM 15 prior 2004 investigation into Masecchia in the Buffalo DEA  
03:50PM 16 office?

03:50PM 17 A. No.

03:50PM 18 Q. Did the defendant ever tell you there was a prior  
03:50PM 19 parallel 2004 Las Vegas file on Mike Masecchia?

03:50PM 20 A. Not that I recall.

03:50PM 21 Q. Let me ask you, why is it that you remember the  
03:51PM 22 conversation about Masecchia that you had with the defendant  
03:51PM 23 in the DEA office? I'm sure you've had a lot of  
03:51PM 24 conversations in the DEA office over the years, right?

03:51PM 25 A. Yes.



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**MR. MacKAY:** Objection.

**MR. TRIPI:** It's just foundational, Judge.

**MR. MacKAY:** Joe, can I just have a word with you?

**MR. TRIPI:** Sure.

**MR. MacKAY:** Objection is withdrawn.

**BY MR. TRIPI:**

Q. So, why, without getting into any underlying facts that you might have learned, why do you remember this conversation with the defendant about Masecchia so many years later?

A. That came back to me the day I was made aware of the indictment.

Q. So did you become aware that the defendant had been charged and Masecchia was also charged --

A. Yes.

Q. -- in relation to this case?

A. Yes.

Q. And did that trigger a memory?

A. It did.

Q. And was the memory that it triggered your conversation about your file?

A. Yes.

Q. Had you known prior to closing this file that Masecchia had been a target in a DEA Buffalo file in 2004, and a DEA Las Vegas file in 2004, do you believe you would have kept the file open longer?

1	A. Yes.
---	---------

2 Q. Do you believe you would have put more effort into this  
3 investigation working with your home agency?

3 | investigation working with your home agency?

4	A. Yes.
---	---------

5 Q. Do you believe you would have searched more resources to  
6 help your home agency with this case?

6 | help your home agency with this case?

7	A. Yes.
---	---------

8 Q. In your discussion about Masecchia, did the defendant  
9 offer you any helpful information about Masecchia?

9 | offer you any helpful information about Masecchia?

10	A. No.
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11 Q. Did he indicate to you in any way that Masecchia may have  
12 connections to Italian Organized Crime?

12 | connections to Italian Organized Crime?

13	A. No.
----	--------

14 Q. Is it common for DEA task force officers and DEA special  
15 agents to share useful information about prior targets?

15 | agents to share useful information about prior targets?

16	A. Yes.
----	---------

17 Q. Usually, do special agents and task force officers try to  
18 help each other on cases?

18 | help each other on cases?

19	A. Yes.
----	---------

20 Q. Did the defendant tell you any information about the  
21 specifics -- specifics of his relationship with Mike

21 | specifics -- specifics of his relationship with Mike

22 | Masecchia?

23	A. No.
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24 Q. Did he ever tell you about going to high school with Mike  
25 Masecchia?

25	Masecchia?
----	------------

03:54PM 1           **MR. MacKAY:** Objection, Judge, asked and answered at  
03:54PM 2 this point.

03:54PM 3           **MR. TRIPI:** That's a different question, Your Honor.

03:54PM 4           **MR. MacKAY:** Because he said he didn't tell him  
03:54PM 5 anything further.

03:54PM 6           **THE COURT:** No, I'm going to let it go a little  
03:54PM 7 further. Overruled.

03:54PM 8           **BY MR. TRIPI:**

03:54PM 9 Q. As to whether they went to high school, did he tell you  
03:54PM 10 anything about that?

03:54PM 11 A. No.

03:54PM 12 Q. Did he tell you they went to college, or drove to college  
03:54PM 13 together?

03:54PM 14 A. No.

03:54PM 15 Q. Did the defendant ever tell you about a person named Lou  
03:54PM 16 Selva?

03:54PM 17 A. No.

03:54PM 18 Q. Did the defendant ever tell you about a person named Ron  
03:54PM 19 Serio?

03:54PM 20 A. No.

03:54PM 21 Q. Did the defendant tell you anything about Mark Suppa?

03:54PM 22 A. No.

03:54PM 23 Q. Did the defendant tell you anything about Matt Suppa?

03:54PM 24 A. No.

03:54PM 25 Q. Did the defendant tell you anything about John Suppa?

03:54PM 1 A. No.

03:54PM 2 Q. Several years later, when a DEA case C2-13-0026 was open,  
03:55PM 3 did the defendant ever come back to you and tell you he  
03:55PM 4 opened a case file titled Wayne Anderson?

03:55PM 5 A. No.

03:55PM 6 Q. Did he ever tell you that in the context of that case, he  
03:55PM 7 was investigating Mike Masecchia?

03:55PM 8 A. No.

03:55PM 9 **MR. TRIPI:** Ms. Champoux, can we pull up Government  
03:55PM 10 Exhibit 8A, please?

03:55PM 11 **THE COURT:** In evidence?

03:55PM 12 **MR. TRIPI:** It is in evidence, Your Honor.

03:55PM 13 **BY MR. TRIPI:**

03:55PM 14 Q. Mr. Higgins, do you recognize this to be a case file  
03:55PM 15 checklist for a DEA case, just generally, case C2-13-0026?

03:55PM 16 A. I see that, yes.

03:55PM 17 Q. The case name?

03:55PM 18 A. Yes.

03:55PM 19 Q. Okay. And C2 is the Buffalo DEA office; is that right?

03:55PM 20 A. That's correct.

03:56PM 21 Q. And 13 is -- would be the way your file structure is, 13  
03:56PM 22 would be the year?

03:56PM 23 A. Yes.

03:56PM 24 Q. Okay.

03:56PM 25 **MR. TRIPI:** Ms. Champoux, I believe this is the

searchable pdf; is that right? Yeah, let's move into that.

Can you please control F for the --

**THE COURT:** Take it off the screen.

**MR. TRIPI:** Yes, please. Ms. Champoux, can you control F for the name Masecchia in this file?

Can we zoom in on that box that has his name there with a 407 Colvin Avenue, please?

**THE COURT:** Let's identify the page we're on.

**MR. TRIPI:** Yep, Judge, this is page 134 of Exhibit 8A. Okay. We can leave it there.

**THE CLERK:** Can we publish?

**MR. TRIPI:** Yes, sorry. This is 8A, page 134 for the jury.

**BY MR. TRIPI:**

Q. Now, Mr. Higgins, you saw we were in file C2-13-0026, correct?

A. Yes.

Q. And now we've searched for the name Masecchia. And generally, do you recognize what this document is?

**MR. TRIPI:** Let's scroll up a little bit, Ms. Champoux, so he can familiarize himself.

**BY MR. TRIPI:**

Q. Does this look like response to a phone record subpoena?

A. Yes.

**MR. TRIPI:** Okay. Scroll back down.

03:58PM

1

**BY MR. TRIPI:**

03:58PM

2

Q. And do you see the name there?

03:58PM

3

A. Yes.

03:58PM

4

Q. What's the name?

03:58PM

5

A. Michael Masecchia.

03:58PM

6

Q. Do you see 407 Colvin Avenue?

03:58PM

7

A. Yes.

03:58PM

8

Q. Is that the same address that you had indexed back in

03:58PM

9

your file in 2009?

03:58PM

10

A. Yes.

03:58PM

11

Q. Same person?

03:58PM

12

A. Yes.

03:58PM

13

Q. Did the defendant ever come back to you in 2012, '13, '14

03:59PM

14

or '15 and say, hey, I'm investigating Mike Masecchia now?

03:59PM

15

A. No.

03:59PM

16

**MR. MacKAY:** Object to form.

03:59PM

17

**THE COURT:** Overruled.

03:59PM

18

**BY MR. TRIPI:**

03:59PM

19

Q. Did he ever say, hey, what happened in your case?

03:59PM

20

A. No.

03:59PM

21

**MR. TRIPI:** Just a moment, please, Your Honor.

03:59PM

22

I have no further direct. Thank you, Your Honor.

04:00PM

23

**THE COURT:** Mr. MacKay.

04:00PM

24

25

CROSS-EXAMINATION BY MR. MacKAY:

Q. All right. While I'm getting set up here, do you go by Agent or Deputy?

A. Deputy is fine.

Q. Is that your title as a sheriff? You were a sheriff first?

A. Sheriff -- deputy sheriff detective, yes.

Q. Okay. You're a detective sheriff though, correct?

A. I am.

Q. Okay. So in 2009, you initiate an investigation that concerns drug activities that might be tied to Michael Masecchia, correct?

A. That's correct.

Q. Okay.

**MR. MacKAY:** Ms. Champoux, can we put that Government Exhibit 12A, page 4, back up for the witness and the jury.

BY MR. MacKAY:

Q. All right. And you talked about with the jury how this page, that's where you index the targets of the investigation, correct?

A. Yes.

Q. And at that time, you had a NADDIS number for Mike Masecchia, correct?

A. That's correct.

Q. And is it -- even as a DEA task force agent, you're

1 permitted to go into the NADDIS system and see the NADDIS  
2 reports, correct?

3 A. That's correct.

4 Q. The NADDIS reports show you information about a person  
5 who's in NADDIS, correct?

6 A. Yes, sir.

7 Q. And it shows all the prior cases that have been  
8 associated with this specific individual, correct?

9 A. They do.

10 Q. So if you were to enter this NADDIS number, it would take  
11 you to Mike Masecchia, correct?

12 A. Yes.

13 Q. And it would show you at that time all of the prior  
14 investigations that had been with DEA before that point in  
15 time, correct?

16 A. Absolutely.

17 Q. Okay. Now I want to talk a little bit about how this  
18 investigation started.

19 **MR. MacKAY:** Can we go up, Ms. Champoux, I think it's  
20 one page up, page 3 of the document.

21 **BY MR. MacKAY:**

22 Q. Okay. All right, so, I think the way you described it to  
23 the jury is that information may have come in from a source  
24 of information, that was then passed to the -- what's called  
25 the STRDTF, and then to you; is that a fair understanding?



25	A. No.
----	--------

04:03PM 1 Q. Okay. So, even if a source of information, it's your  
04:03PM 2 understanding that you don't have to put down the name of the  
04:03PM 3 SOI?

04:03PM 4 A. It's a -- partnering agency source of information.

04:03PM 5 Q. So if -- that's what I'm trying to clarify. If the SOI  
04:03PM 6 comes from a different agency, you don't have to put down who  
04:03PM 7 the SOI's name?

04:03PM 8 A. I didn't. I -- I don't know.

04:03PM 9 Q. Okay. So, maybe I'm getting a little turned around here.  
04:04PM 10 Did you not know the name at the time then? Or do you not  
04:04PM 11 know the name as you sit here, but you knew it before? Does  
04:04PM 12 that make sense?

04:04PM 13 A. I don't recall who the source of information was.

04:04PM 14 Q. Okay. So my question is, as you sit here, you don't  
04:04PM 15 recall, but do you think back in 2009 you were provided with  
04:04PM 16 the name of this SOI?

04:04PM 17 A. Yes.

04:04PM 18 Q. Okay. And then my question from that is: Is it  
04:04PM 19 procedure with an SOI, even if you receive it from a  
04:04PM 20 different agency, to put that SOI's name in the DEA-6?

04:04PM 21 A. No.

04:04PM 22 Q. Okay. So then I want to direct your attention to the  
04:04PM 23 third line in the first paragraph. It says the C.S.  
04:04PM 24 stated -- do you see that part?

04:04PM 25 A. Where is that? Oh, okay, yep.

04:04PM 1 Q. First paragraph, third line, it says C.S. stated. Do you  
04:04PM 2 see that?

04:04PM 3 A. Yes.

04:04PM 4 Q. Can you explain for the jury why there's both the term  
04:05PM 5 "SOI" and "C.S." in the same document here?

04:05PM 6 A. Yes.

04:05PM 7 Q. Why's that?

04:05PM 8 A. C.S. is a common term that we use when we have an  
04:05PM 9 assigned or a cooperator, and it's just clearly a typo on my  
04:05PM 10 part. I did that.

04:05PM 11 Q. So sometimes C.S. and the term SOI, the abbreviation C.S.  
04:05PM 12 and SOI are used interchangeably?

04:05PM 13 A. No.

04:05PM 14 Q. Okay. Sometimes they're mistakenly put in place of one  
04:05PM 15 another?

04:05PM 16 A. Yes.

04:05PM 17 Q. Okay.

04:05PM 18 **MR. MacKAY:** You can take that down, Ms. Champoux.  
04:05PM 19 Thank you.

04:05PM 20 **BY MR. MacKAY:**

04:05PM 21 Q. Because I think as you have explained, the term "C.S."  
04:05PM 22 refers to someone who's formally signed up by the DEA,  
04:05PM 23 correct?

04:05PM 24 A. Yes, sir.

04:05PM 25 Q. And you never went through the formal sign-up process

04:05PM 1 with whoever this individual was, you're referring to,  
04:05PM 2 correct?

04:05PM 3 A. That's correct.

04:05PM 4 Q. Okay. All right. But, when you -- when you initiated  
04:06PM 5 the investigation in 2009, as a DEA file, you had some  
04:06PM 6 relatively specific information by then, correct?

04:06PM 7 A. Yes.

04:06PM 8 Q. You had the names of at least three targets, correct?

04:06PM 9 A. Yes.

04:06PM 10 Q. You had the name of a possible grow location, correct?

04:06PM 11 A. Yes.

04:06PM 12 Q. Okay. And you knew specifically what road it was on, if  
04:06PM 13 not specifically even the properties, correct?

04:06PM 14 A. Yes.

04:06PM 15 Q. Okay. And you had information that the -- the -- I'm  
04:06PM 16 going use the abbreviation, STRDTF had seized plants in that  
04:06PM 17 same location, correct?

04:06PM 18 A. I believe I said neighboring areas, yes, sir.

04:06PM 19 Q. Same general vicinity, by that Morgan Hollow Road?

04:06PM 20 A. Yes.

04:06PM 21 Q. From there let's talk about what happened.

04:07PM 22 It's your understanding -- well, let me ask you. Did you  
04:07PM 23 ever personally conduct surveillance on the Morgan Hollow  
04:07PM 24 Road location?

04:07PM 25 A. No.

04:07PM 1 Q. But you understood that perhaps members of the STRDTF  
04:07PM 2 had?  
04:07PM 3 A. Yes.  
04:07PM 4 Q. You see I'm stumbling with the acronym. If I call it the  
04:07PM 5 drug task force, can we use that term?  
04:07PM 6 A. Yes.  
04:07PM 7 Q. Do you know of any other investigative techniques they  
04:07PM 8 had pursued?  
04:07PM 9 A. I don't.  
04:07PM 10 Q. In your capacity as a DEA task force agent up here in  
04:07PM 11 Buffalo, I'm going to ask you about some actions that you did  
04:07PM 12 or did not take. Did you ever apply for any GPS tracker  
04:07PM 13 warrants?  
04:07PM 14 A. No.  
04:07PM 15 Q. Did you ever do anything to find any association vehicles  
04:07PM 16 to that location?  
04:07PM 17 A. No.  
04:07PM 18 Q. Okay. Did you ever run any phone numbers or any  
04:07PM 19 databases connected to any individuals you had --  
04:08PM 20 A. No.  
04:08PM 21 Q. -- identified? Okay.  
04:08PM 22 Did you ever cause any administrative subpoenas to be  
04:08PM 23 served?  
04:08PM 24 A. Not to my recollection.  
04:08PM 25 Q. Okay. And did you have a further debriefing with the SOI

04:08PM 1 after the initial debrief?

04:08PM 2 A. No.

04:08PM 3 Q. Okay. Did you ever request air surveillance? Let me ask  
04:08PM 4 you this. Withdraw that question.

04:08PM 5 Does Cattaraugus County have their own air division?

04:08PM 6 A. No.

04:08PM 7 Q. Would it be fair to say, then, that who was used is the  
04:08PM 8 Erie County Sheriff's air surveillance?

04:08PM 9 A. Excuse me?

04:08PM 10 Q. If -- if air surveillance is needed down in the  
04:08PM 11 Cattaraugus County area, would that be performed by Erie  
04:08PM 12 County sheriffs?

04:08PM 13 A. No.

04:08PM 14 Q. Who would do that?

04:08PM 15 A. We generally would utilize the New York State Police  
04:08PM 16 helicopter services.

04:08PM 17 Q. Okay. Because they have statewide jurisdiction, is that  
04:08PM 18 why?

04:08PM 19 A. Yes.

04:08PM 20 Q. Did you ever make any outreach to state police about  
04:09PM 21 using their aircraft to survey the location?

04:09PM 22 A. No.

04:09PM 23 Q. Okay. Now, you saw the different DEA-6s in Exhibit 30A,  
04:09PM 24 do you remember those? Exhibit 30A, we saw the -- I'm sorry,  
04:09PM 25 12A, you saw the DEA-6s; do you remember those?

04:09PM 1 A. Yes.

04:09PM 2 Q. You recall you wrote a case update in October of 2009,  
04:09PM 3 correct?

04:09PM 4 A. Yes.

04:09PM 5 Q. Okay. Now, at that point in time, that's past the  
04:09PM 6 marijuana grow season, correct?

04:09PM 7 A. October?

04:09PM 8 Q. October.

04:09PM 9 A. No.

04:09PM 10 Q. Okay. When does the marijuana grow season end?

04:09PM 11 A. Marijuana grow season really depends on the first and  
04:09PM 12 second frost cycle of the year, generally.

04:09PM 13 Q. Okay. So let's clarify that a little bit more for the  
04:09PM 14 jury. What do you mean by that this terms of dates and  
04:09PM 15 timing of the year?

04:10PM 16 A. From my experience, we find that your people who grow  
04:10PM 17 outdoors in New York State tend to wait for that first frost  
04:10PM 18 to hit the plant, it's before they harvest the plant. It  
04:10PM 19 doesn't mean you can't do it before that, but generally  
04:10PM 20 they'll wait. So we harvest plants September, beginning of  
04:10PM 21 October, depending on what Mother Nature's doing for us out  
04:10PM 22 there.

04:10PM 23 Q. Okay. And I think you talked about first and second  
04:10PM 24 frost. Does that mean that after the first frost but before  
04:10PM 25 the second frost that's typically when they're pulled?

04:10PM 1 A. No. Just when they can -- when they miss those days  
04:10PM 2 generally, they like to get them done from my experience.

04:10PM 3 Q. Okay. So around the time you're getting that first  
04:10PM 4 frost, that's usually about the time the grow season is  
04:10PM 5 ending, correct?

04:10PM 6 A. Yes.

04:10PM 7 Q. So if you have an early frost, the grow season would end  
04:11PM 8 early, correct?

04:11PM 9 A. Sure.

04:11PM 10 Q. If you had an Indian summer and it lasted long, you would  
04:11PM 11 have a longer growing season, correct?

04:11PM 12 A. Correct.

04:11PM 13 Q. Okay. Now you opened the case in June of 2009, and you  
04:11PM 14 close it out seven months later, correct?

04:11PM 15 A. Yes.

04:11PM 16 Q. That's in January of 2010, correct?

04:11PM 17 A. Yes.

04:11PM 18 Q. By that time, that's -- it's definitely winter, correct?

04:11PM 19 A. Yes.

04:11PM 20 Q. And it's definitely no longer growing season, correct?

04:11PM 21 A. Yes.

04:11PM 22 Q. So you did not carry the investigation into the new grow  
04:11PM 23 season in the location, correct?

04:11PM 24 A. No.

04:11PM 25 Q. Okay. And you closed it out because of what you termed



04:11PM 1 "solvability factors," correct?

04:11PM 2 A. Yes.

04:11PM 3 Q. What that means is you just basically didn't have enough  
04:11PM 4 to move forward on the investigation, correct?

04:11PM 5 A. That's correct.

04:11PM 6 Q. Now you talked to us before about how surveillance is  
04:11PM 7 particularly difficult in the rural area, correct?

04:11PM 8 A. Yes.

04:11PM 9 Q. So confidential informants are even more important to  
04:11PM 10 infiltrate an organization, correct?

04:11PM 11 A. Yes.

04:11PM 12 Q. And your SOI, as far as you know, could not make the leap  
04:12PM 13 into becoming a C.I. with the organization, correct?

04:12PM 14 A. Correct.

04:12PM 15 Q. Because sometimes people start as SOIs who might be just  
04:12PM 16 somebody providing a tip, correct?

04:12PM 17 A. Correct.

04:12PM 18 Q. Could be like a concerned neighbor, correct?

04:12PM 19 A. Yes.

04:12PM 20 Q. But in order to be a C.I., you're gonna have to have ties  
04:12PM 21 to somebody in the organization, correct?

04:12PM 22 A. Yes.

04:12PM 23 Q. Because to make any sort of controlled purchase or  
04:12PM 24 personal dealings with the targets, they're not, in your  
04:12PM 25 experience, the targets aren't going to trust just anybody,

04:12PM 1 correct?

04:12PM 2 A. Correct.

04:12PM 3 Q. And it's your experience that SOIs don't always

04:12PM 4 materialize into C.I.s because that relationship can never be

04:12PM 5 formed, correct?

04:12PM 6 A. Yes.

04:12PM 7 Q. And sometimes the leads that SOIs provide don't pan out

04:12PM 8 further in an investigation, correct?

04:12PM 9 A. That's correct.

04:12PM 10 Q. Okay. And specifically, in this one -- well, the initial

04:12PM 11 lead panned out, but the SOI never went any further, correct?

04:13PM 12 A. Correct.

04:13PM 13 Q. Now, lastly, I want to talk a little bit about the

04:13PM 14 operations at DEA. You said by 2009, if you could recall,

04:13PM 15 that they had moved to the Electric Tower building, correct?

04:13PM 16 A. I believe -- I believe so. We moved there by then.

04:13PM 17 Q. Okay. But it's your testimony that from your time as a

04:13PM 18 DEA task force agent, you were always in group D-58, correct?

04:13PM 19 A. Yes.

04:13PM 20 Q. And you never did any time with any other group, correct?

04:13PM 21 A. That's correct.

04:13PM 22 Q. Okay. Now, on DEA-6s, it's part of filling out a DEA-6

04:13PM 23 that you have to mark your group in the upper left-hand

04:13PM 24 corner, correct?

04:13PM 25 A. Yes.

04:13PM 1 Q. Okay. There's a box where you put your name as the agent  
04:14PM 2 and the group, correct?

04:14PM 3 A. Correct.

04:14PM 4 Q. Okay.

04:14PM 5 **MR. MacKAY:** Ms. Champoux, can we pull up Government  
04:14PM 6 Exhibit 30B. I'm sorry, 30A, in evidence. Can we just zoom  
04:14PM 7 in on the top part. Cool.

04:14PM 8 **BY MR. MacKAY:**

04:14PM 9 Q. I'm going to direct you to, first of all, box 8. Do you  
04:14PM 10 see that?

04:14PM 11 A. Yes.

04:14PM 12 Q. Okay. And that's -- that indicates this DEA-6 was  
04:14PM 13 prepared in November of 2009, correct?

04:14PM 14 A. Yes.

04:14PM 15 Q. Okay. I'm going to direct you to box 5; do you see that  
04:14PM 16 box?

04:14PM 17 A. Yes.

04:14PM 18 Q. That indicates that Joseph Bongiovanni was assigned to  
04:14PM 19 group 57 at that time?

04:14PM 20 A. Correct.

04:14PM 21 Q. Would you have any reason to disagree with me that  
04:15PM 22 actually by December 2008, Mr. Bongiovanni had already been  
04:15PM 23 working in group D-57?

04:15PM 24 A. In December?

04:15PM 25 Q. December of --

04:15PM 1 A. December or.

04:15PM 2 Q. December of 2008.

04:15PM 3 A. I don't know.

04:15PM 4 Q. Do you recall?

04:15PM 5 A. I don't recall.

04:15PM 6 Q. Let me help you refresh your recollection.

04:15PM 7 **MR. MacKAY:** Ms. Champoux, can we take that down, and  
04:15PM 8 put up what's not in -- what's not in evidence for the witness  
04:15PM 9 only, Government Exhibit 30B. Again, can we blow up the top  
04:15PM 10 portion.

04:15PM 11 **BY MR. MacKAY:**

04:15PM 12 Q. Okay. Same thing, can you review boxes 5 and 8 to

04:15PM 13 yourself, and tell me if that refreshes your recollection

04:15PM 14 that in December of 2008, Mr. Bongiovanni was in group D-57?

04:15PM 15 A. By this indication on this exhibit, yes.

04:15PM 16 Q. Okay. Is your recollection --

04:16PM 17 **MR. MacKAY:** Can we take that down, Ms. Champoux?

04:16PM 18 **BY MR. MacKAY:**

04:16PM 19 Q. Is your recollection refreshed as to whether

04:16PM 20 Mr. Bongiovanni, by December 2008, was working in group D-57?

04:16PM 21 A. No.

04:16PM 22 Q. Okay.

04:16PM 23 **MR. MacKAY:** Judge, can I just have one moment?

04:16PM 24 **THE COURT:** Sure.

04:16PM 25 **MR. MacKAY:** I have no further questions, Your Honor.

04:16PM 1 **MR. TRIPI:** Just one, Judge.

04:16PM 2 **THE COURT:** Sure.

04:16PM 3

04:16PM 4 **REDIRECT EXAMINATION BY MR. TRIPI:**

04:16PM 5 Q. Are you 100 percent sure the conversation you had with  
04:16PM 6 the Defendant Bongiovanni about Masecchia happened at DEA?

04:16PM 7 A. Yes.

04:16PM 8 **MR. TRIPI:** Thank you. Nothing further.

04:16PM 9 **THE COURT:** Anything else?

04:16PM 10 **MR. MacKAY:** No, Your Honor.

04:16PM 11 **THE COURT:** Okay. You can step down, sir, thank you.

04:16PM 12 (Witness excused at 4:16 p.m.)

13 (Excerpt concluded at 4:16 p.m.)

14 \* \* \* \* \*

15

16 **CERTIFICATE OF REPORTER**

17

18 In accordance with 28, U.S.C., 753(b), I  
19 certify that these original notes are a true and correct  
20 record of proceedings in the United States District Court for  
21 the Western District of New York on March 6, 2024.

22

23 s/ Ann M. Sawyer  
24 Ann M. Sawyer, FCRR, RPR, CRR  
25 Official Court Reporter  
U.S.D.C., W.D.N.Y.

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